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Signed: 2004

DEMAY

PATENT

Attorney Docket No.: 18525/04028

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Applicant submits that restriction is not proper in this instance. M.P.E.P. § 803 states the requirement for a **proper** restriction.

There are two criteria for a proper requirement for restriction between patentably distinct inventions: (A) The inventions must be independent or distinct as claimed; **and (B) There must be a serious burden on the examiner if restriction is required.**

(M.P.E.P. § 803, citations omitted, emphasis added.) Thus, there are **two** requirements for restriction: distinctness **and** a **serious** burden. Both are required; distinctness without a serious burden is not sufficient to justify restriction. Indeed, section 803 explicitly states that “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.”

Applicant respectfully submits that restriction is not proper in this case. While the claims of Groups I and II may satisfy the Office’s requirements for distinctness, their consideration would not result in a **serious** burden on the Office. Thus, Applicant respectfully requests that the Office consider Groups I and II (i.e., claims 1-32) together.

Respectfully submitted,

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